United Nations CEDAW/C/SR.1631

Convention on the Elimination of All Forms of Discrimination against Women

Distr.: General
30 October 2018

Original: English

Committee on the Elimination of Discrimination against Women
Seventy-first session

Summary record of the 1631st meeting*
Held at the Palais des Nations, Geneva, on Tuesday, 23 October 2018, at 10 a.m.

Chair: Ms. Leinarte

Contents

Consideration of reports submitted by States parties under article 18 of the Convention (*continued*)

Sixth periodic report of Nepal

* No summary record was issued for the 1630th meeting.

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The meeting was called to order at 10 a.m.

Consideration of reports submitted by States parties under article 18 of the Convention (*continued*)

Sixth periodic report of Nepal (CEDAW/C/NPL/6; CEDAW/C/NPL/Q/6 and CEDAW/C/NPL/Q/6/Add.1)

1. *At the invitation of the Chair, the delegation of Nepal took places at the Committee table.*

2. **Ms. Thapa** (Nepal), introducing her country's sixth periodic report (CEDAW/C/NPL/6), said that the Government of Nepal remained committed to the effective implementation of the Convention and of all human rights treaties to which Nepal was a party. Nepal was currently a member of the Human Rights Council, a deputy member of the Governing Body of the International Labour Organization and the Chair of both the South Asian Association for Regional Cooperation and the Colombo Process. In all those forums, it had been expressing views concerning the advancement of women's rights and gender equality.

3. Nepal had become a party to the Convention following the restoration of a multiparty system in the country in the early 1990s. Since then, it had been striving to comply with the letter and spirit of the Convention, including through the amendment of centuries-old laws and policies that had been the product of a feudalistic mentality and a paternalistic value system. In 2006, in response to the persistence of outdated values and practices that had lain at the root of violence and discrimination against women, the Nepalese people had organized a popular movement for the establishment of a federal democratic republic. The movement had been a success and had been followed by the promulgation of a new Constitution, the aim of which was to build a society based on the principles of equality, shared prosperity, social justice and proportional and participatory inclusion. Article 18 provided for the right to equality and prohibited all forms of discrimination against women, while article 38 guaranteed women's rights to equal lineage, safe motherhood and reproductive health and criminalized all physical, mental, sexual, psychological or other violence against or exploitation of women. It also provided for positive discrimination in favour of women in the fields of education, health, employment and social security.

4. The Constitution had transformed Nepal from a unitary to a federal country, with three tiers of government composed of some 40,000 elected representatives. Women's electoral representation was in excess of 41 per cent. Issues related to women were addressed at the federal level by the Ministry of Women, Children and Senior Citizens, at the provincial level by the Ministry of Social Development and at the local level by the Social Development Section. The National Women's Commission had been upgraded to a constitutional body and had been empowered and equipped accordingly, and the process of appointing its members had begun. In the judiciary, a three-tiered system was being introduced that would facilitate women's access to justice at the local level.

5. On 16 September 2018, the Federal Parliament had enacted more than 100 laws, including 16 designed to promote the implementation of the fundamental rights enshrined in the Constitution. All existing laws concerning such rights would be amended by mid-March 2019. The country's oldest codified law, the General Code, had been replaced in 2017 by a new Civil Code, Criminal Code, Code of Civil Procedure and Code of Criminal Procedure, which, together, criminalized and punished all forms of discrimination, violence, harmful social practices and other harmful acts against women.

6. The Government, which had secured a two-thirds majority in Parliament, was pursuing a long-term vision known as "Prosperous Nepal, Happy Nepalis" and had accorded high priority to policies, plans and programmes targeted at women, who were increasingly well represented in high-level political positions both nationally and internationally. The socioeconomic situation of Nepalese women had also improved. Gender parity had been achieved in primary education and the gender gap was closing at the secondary and tertiary levels. Nepal was a regional leader in the field of women's health, the proportion of land and property owners who were women had risen from 20 per

cent in 2011 to 26 per cent in 2017, and around 40 per cent of cooperatives were currently being led by women.

7. On 24 August 2018, the House of Representatives had passed a four-point resolution to end violence against women and girls. An action plan and a high-level mechanism had been established to implement the resolution and to monitor implementation, respectively. Programmes were being conducted throughout the country to raise awareness of violence against women and children and to protect and rehabilitate victims. Moreover, as part of an 82-point plan to reform the police force, special campaigns would be launched to highlight the need to end sexual violence against women and girls.

8. Bilateral labour agreements had been concluded with seven major countries of destination for Nepalese migrant workers, and efforts were ongoing to reach similar agreements with others. In 2021, a national census would be carried out and comprehensive gender-disaggregated data would be collected. The Government intended to launch a five-year action plan to end discrimination against women and had mainstreamed the goals and targets of the 2030 Agenda for Sustainable Development into national policies and programmes. In that connection, 430 indicators had been devised, including 20 for the implementation of Sustainable Development Goal 5 on achieving gender equality and empowering all women and girls. The fourteenth periodic plan was being implemented with those indicators in mind, as part of an approach that would continue with the fifteenth periodic plan.

9. **Mr. Dhital** (Nepal) said that the new Constitution set forth a guarantee of equality and non-discrimination and was fundamentally human rights-oriented and inclusive. The Government had adopted a zero-tolerance policy with regard to domestic and gender-based violence, as reflected in a number of relevant laws, including the 2014 law on sexual harassment in the workplace and the 2007 law on human trafficking. Since 2006, a total of 88 laws had been amended to remove gender-discriminatory provisions.

10. The historic process of political transformation that had culminated in the promulgation of the new Constitution in 2015 had been marked by a number of significant achievements related to the promotion and protection of women's rights. The constitutional provision on proportional inclusion had led to an increase in the participation of women, Dalits, indigenous peoples and other marginalized and minority groups in political decision-making. The incorporation of the Convention into domestic law had been prioritized and was viewed as fundamental to ensuring gender equality and non-discrimination. In 2010, Nepal had received a Millennium Development Goals Achievement Award for its progress in achieving Goal 5 on improving maternal health.

11. Nepal was a multi-ethnic, multicultural, multireligious and multilingual nation whose Constitution guaranteed that all citizens were equal before the law. The Criminal Code and Code of Criminal Procedure that had entered into force in 2017 had introduced key reforms that had strengthened the effectiveness of the Nepalese criminal law system, particularly in terms of combating discrimination.

12. Since 2007, around 45 per cent of vacant civil service posts had been reserved for women, Dalits, indigenous peoples, persons with disabilities, Madhesis and persons living in disadvantaged areas. Since 2004, the Government had drawn up national human rights action plans. The current plan, for the period 2014–2019, outlined specific activities, including the revision of laws to ensure that they were in line with international human rights standards and protected the rights of all disadvantaged and marginalized groups.

13. Since 2010, the Ministry of Federal Affairs and Local Development had been implementing the Gender Equality and Social Inclusion Policy, pursuant to which at least 10 per cent of government funding for local bodies was allocated to programmes for the empowerment of women.

14. All Dalit children received free education, school lunches and stationery, and children under 5 years of age from Dalit communities and remote areas were granted an allowance of up to 400 Nepalese rupees per month. Sanitary pads were distributed and separate toilet facilities provided to prevent girls from missing school during their periods.

15. The Government promoted the provision of multilingual education in schools through the Multilingual Education Implementation Guidelines. There were currently 24 schools offering such education, and school textbooks had been prepared in 16 languages.

16. One of the objectives of the fourteenth periodic plan and of the Labour and Employment Policy was to ensure that women's employment was safe and systematic. The policy was intended to make foreign employment inclusive and pro-poor through the provision of vocational training and the promotion of entrepreneurship.

17. Through the National Health Policy, the Government sought to strengthen the system for the delivery of quality health services and to ensure access to those services for poor, marginalized and at-risk groups. The Nepal Health Sector Strategy for 2015–2020 focused on four strategic areas: ensuring equitable access to health services, improving the quality of such services, reforming the health-care system and adopting a multisectoral approach.

18. The 10-year Zero Hunger Challenge Initiative, which ran up to 2025, was designed to ensure that all citizens, including women and children, enjoyed the right to adequate food, and the Government was in the process of developing framework legislation on that right. Programmes were also in place to facilitate access to education for marginalized and disadvantaged girls and to provide skills training and education to rural out-of-school adolescent girls and women.

19. The Government was implementing special measures to foster gender equality and the empowerment of women, including through the Yogamaya Women Empowerment Programme, which provided support to women who were at risk of, or suffering from, economic and social backwardness, or who were poor, single or affected by sexual violence or natural disasters.

20. A 10-year national plan of action against trafficking in persons had been in force since 2011, and a national plan of action against trafficking in women and children had been implemented since 2012.

21. The National Human Rights Commission was an independent constitutional body that had been accredited with category A status. The National Women's Commission had been assigned major responsibilities for policymaking, monitoring the implementation of treaties related to women's rights and gender equality, monitoring and evaluating women's development programmes, carrying out research and studies on issues of gender equality and reinforcing gender justice.

22. The Gender Coordination and Empowerment Unit established within the Office of the Prime Minister and Council of Ministers in 2010 had been instrumental in improving victims' access to justice. The Unit operated a hotline to handle complaints of sexual and gender-based violence. Within the Ministry of Finance, a Gender Responsive Budget Committee had been set up to implement gender-responsive budgeting guidelines. In addition, parliamentary committees had been created to address women's rights and gender equality, and had made significant efforts to monitor the implementation of relevant human rights treaties. A National Steering Committee established under the Office of the Prime Minister to address gender-based violence had been active in expediting effective implementation and monitoring measures.

23. The Constitution guaranteed free compulsory basic education and free secondary education. The net primary enrolment rate in Nepal had risen from 64 per cent in 1990 to 96.6 per cent in recent years.

Articles 1 to 6

24. **Ms. Hayashi**, noting that there was a need for the State party to address the multiple forms of discrimination faced by Dalit women, women with disabilities, displaced women, women belonging to religious and sexual minorities and indigenous women, said that she wished to know how and when the State party would adopt a comprehensive definition of discrimination in line with article 1 of the Convention and provide systematic training on gender equality to law enforcement officers and members of the judiciary.

25. She asked what obstacles were preventing the State party from amending or abolishing discriminatory laws, including the Citizenship Act and the Civil Code, and what the Government's time frame was for doing so.

26. She would welcome information on the process of consultation with civil society on the 2018 bill to amend the Truth and Reconciliation Commission Act. In particular, she wished to hear from the delegation about two troubling provisions of the bill: one that would enable the Government to order that a case should be dropped regardless of the gravity and nature of the alleged crimes and another that would open the door to more lenient punishments for perpetrators who pleaded guilty, apologized to their victims and promised not to reoffend. An assessment of the work of the Truth and Reconciliation Commission and of whether women and girls had sufficiently and successfully availed themselves of it would also be appreciated.

27. **Mr. Dhital** (Nepal) said that the Constitution and a number of other recently enacted laws contained clear provisions that defined and prohibited discrimination against and harassment of women in all areas of life. More time was needed, however, to ensure the effective implementation of those provisions.

28. Efforts to amend or abolish discriminatory laws had begun in 2006 and were ongoing. The Government was approaching the task with an open mind and was engaging with civil society actors, whom it viewed as partners for development. The Foreign Employment Act had been revised and improved several times, a specific programme had been developed to promote gender equality in migration and proposed amendments to the Citizenship Act were being considered by Parliament. The Government would continue its policy of introducing positive, incremental changes that were in line with national interests.

29. To facilitate access to justice, legal aid was provided to persons with limited means and additional support was offered by a range of mechanisms, including one established under the Office of the Attorney General and others run by civil society organizations.

30. The Commission of Investigation on Enforced Disappeared Persons had received around 10,000 complaints and the Truth and Reconciliation Commission had received around 60,000. Parliament was currently discussing amendments to the law that had established those bodies in order to better reflect the true situation in the country and the State's obligations under international law; for example, perpetrators of gross human rights violations such as rape and sexual violence would not be eligible for amnesty. Under one of the proposed new provisions, victims would be entitled to compensation. A system for ensuring that perpetrators were not granted amnesty without the victims' informed consent was also under consideration.

31. **Ms. Hayashi** said that the three years permitted under the Constitution for the removal of discriminatory provisions from legislation had passed, yet the process was not complete. She wondered what time frame the State party envisaged for completing it. The Constitution listed gender as one of the prohibited grounds of discrimination, but there was still no definition of discrimination; did the State party intend to introduce a definition into the Constitution or the law?

32. She asked the delegation to provide information on the second phase of the national action plan on Security Council resolutions 1325 (2000) and 1820 (2008) and on the provisions made for the allocation of sufficient resources and the establishment of reporting and monitoring mechanisms in each province.

33. She was concerned at reports indicating that women human rights defenders routinely faced threats and intimidation from the authorities, their own families and their communities. The proposed new policies on integrity and ethics and on privacy were likely to have an impact on the advocacy work of non-governmental organizations (NGOs). She would like to know the delegation's view on the new policies from the standpoint of freedom of expression.

34. Under current arrangements, legal aid was available to anyone with an income of less than 40,000 Nepalese rupees and there was no legal aid fund specifically for vulnerable groups of women. She would appreciate the delegation's view on how legal aid coverage

could be expanded to ensure that women and girls had affordable access to justice and to quality legal representation.

35. **Ms. Halperin-Kaddari** asked whether the State party had considered making special arrangements for providing legal aid to women victims of domestic and other forms of violence.

36. **Ms. Schulz** said that certain Human Rights Council special procedures mandate holders had expressed a fear that the restrictions introduced under the new policies on integrity and ethics and on privacy could subject the work of NGOs to control or interference by the authorities and could adversely affect their access to funding. The Committee was concerned at the potential impact of new legislation governing publishing and the press and of regulations governing broadcasting: they were framed in rather broad terms and included references to concepts such as public morality, decent behaviour and social honour. Such vague language could open the door to arbitrary decisions and lead to tight restrictions on the freedom of expression, thereby endangering human rights defenders and exposing them to harassment, including online harassment. She asked the delegation to indicate the current state of the discussions on the draft national integrity and ethics policy and the privacy policy and to comment on the implementation of the Press and Publication Act and the National Broadcasting Regulation.

37. **Ms. Acosta Vargas**, noting that the Constitution did not specifically recognize the rights of indigenous peoples in accordance with the United Nations Declaration on the Rights of Indigenous Peoples, asked whether their specific rights were protected in any way by the Constitution.

38. **Mr. Dhital** (Nepal) said that women victims of violence were eligible for direct support from the Gender-based Violence (Elimination) Fund in order to obtain justice. Many such cases could be handled at the local level by the municipal judicial committees, which were empowered to mediate and adjudicate, and could also refer cases to the courts.

39. Definitions of gender discrimination were given in the new Civil Code and Criminal Code and in the laws on gender-based violence, domestic violence and sexual harassment in the workplace, which also gave descriptions of possible scenarios in which discrimination could occur.

40. Nepal was a party to the International Labour Organization (ILO) Indigenous and Tribal Peoples Convention, 1989 (No. 169).

41. **Mr. Gautam** (Nepal) said that there were two time frames for the harmonization of legislation. The first was a three-year period for the enactment of new legislation to enforce fundamental rights; the 16 laws referred to earlier had been adopted within that time frame. The second was a one-year period that would run from the first session of the new Federal Parliament, in which all legislation dating from the old unitary form of governance was to be aligned with the new federal arrangements.

42. The Nepalese approach to defining discrimination was to devise definitions relating to specific areas of legislation. Thus, the new Criminal Code created the offence of discrimination and set forth the relevant prohibited grounds, including grounds of sex, while the Right to Safe Motherhood and Reproductive Health Act gave a comprehensive definition of discrimination in that sector.

43. The legal aid policy was currently under review. Previous amendments had made specific provision for persons with disabilities and women victims of the armed conflict or of domestic violence, but a thorough overhaul was needed to raise the outdated 40,000-rupee income cap and devise a comprehensive policy.

44. **Mr. Dhital** (Nepal) said that there were a number of specific mechanisms to provide legal aid to victims, such as the Single Women Protection Fund and a rehabilitation fund for victims of trafficking. In that way, specific needs were addressed in a changing social situation.

45. **Mr. Gautam** (Nepal) said that the new national action plan on Security Council resolutions 1325 (2000) and 1820 (2008) was in the pipeline. The ministry responsible for

implementation of the previous plan no longer existed; implementation would be overseen by a new dedicated division of the Ministry of Home Affairs.

46. The new national integrity policy was merely an instrument for the coordination and harmonization of the various codes of conduct already in place in sectors such as journalism, the civil service, the Bar and medicine, with a view to ensuring that the aims and objectives of each sector's institutions were achieved. The codes of conduct were essentially a form of sectoral self-regulation.

47. Under a bill that had recently been presented, the statute of limitations would not apply to heinous crimes such as violence against women and sexual offences. The drafting had taken due account of victims' concerns, as well as of basic constitutional guarantees, the international commitments of Nepal under human rights treaties and relevant Supreme Court rulings. The enactment of that legislation would complete the peace process.

48. **Ms. Schulz** said that the Committee fully supported the State party's drive to introduce strong regulatory provisions. However, on the basis of past experience, it feared that imprecise terminology could lead to the criminalization of legitimate activities being carried out by civil society or by members of the sectors that were governed by the codes of conduct mentioned by the delegation.

49. She congratulated the State party on the establishment of judicial committees in more than 700 local authorities, which represented a very interesting development in the provision of access to justice. She wondered, however, whether they were all equipped to fulfil what was a very important responsibility; the Committee had heard, for example, that they did not receive adequate training. Moreover, according to reports, the committees had not always gained the respect of their local communities, and that created a risk that their proceedings and decisions might not always be conducive to the protection of women's rights.

50. **Ms. Hayashi** asked how the second action plan on Security Council resolutions 1325 (2000) and 1820 (2008) was expected to differ from the first. Civil society had reported a number of deficiencies in the first plan; would they be rectified in the second? With regard to access to justice, she would like to know what provision was made in the legal aid scheme to enable members of ethnic groups, of which there were more than 120, to follow proceedings in their own languages.

51. **Mr. Dhital** (Nepal) said that the purpose of the integrity and ethics policy was to set out clear rules that would ensure mutual respect among all those who contributed to the process of governance, including civil society organizations, the private sector and donors, but also all members of society at large.

52. There was no reason to doubt the credibility of the local judicial committees, as their members were elected representatives of the people and worked for the people. While additional capacity-building would be needed to enable them to discharge their functions more efficiently and effectively, they were fully integrated in their communities.

53. The context of the new action plan on Security Council resolutions 1325 (2000) and 1820 (2008) was very different from that of the first action plan, which had been tailored to the needs arising from the transition from conflict. The need now was to build peace and resilience, which required a more creative approach.

54. Nepal respected the right of indigenous peoples to use their own languages, but some of those languages had no written form, and Nepali was a lingua franca that was understood by all. There was thus no need for interpretation in order to ensure access to justice.

55. **Mr. Gautam** (Nepal) said that the right to privacy was a constitutional right and, as such, was protected under the Personal Privacy Protection Act. While the National Broadcasting Regulation needed to be brought into line with the new Constitution, it struck a balance between the right to information and the State's legitimate right to impose restrictions in the interests of community harmony and in response to threats to national sovereignty. Such restrictions were limited and did not impair the freedom of speech.

56. Like the Committee, his Government was also keen to ensure that the judicial committees were fully able to discharge their responsibilities. The Ministry of Federal Affairs and Local Development and the Ministry of Law, Justice and Parliamentary Affairs were taking steps to train and empower committee members, notably in the development of their own materials and procedures.

57. **Ms. Song** said that she would be grateful for details on the current status of the National Women's Commission, the timeline for completing its establishment and the measures in place to ensure that it could fulfil its mandate. She asked how the Government ensured coordination between the Ministry of Women, Children and Senior Citizens, which was responsible for issues related to women at the federal level, and the Ministry of Social Development, which performed that role at the provincial level. She would appreciate information on the timeline for the adoption of the national gender equality policy and the Action Plan on Gender Empowerment and Ending Gender-based Violence; on the major effects of gender-responsive budgeting on the overall status of women; on whether the State party had monitored those effects; and on when gender-responsive budgeting might be introduced at the provincial and local levels. The Committee wished to know what steps the State party had taken to ensure that all women, including those living in far-flung rural areas, indigenous women and women with disabilities, received information on all its legislation, programmes, projects and strategies for women's advancement and gender equality.

58. **Ms. Schulz** said that the State party had failed to respect the three-year time limit under article 47 of the 2015 Constitution for the adoption of legislation to implement the special opportunity provision in article 38 (5) of the Constitution. She would like to know whether the Government had included such a law among those that it intended to pass in March 2019 and, if not, what the time frame was for its adoption, and whether the law would concentrate on temporary special measures or also provide for permanent measures. Article 18 (3) of the Constitution limited the application of the special opportunity provision to socially or culturally backward women. She asked whether the State party planned to apply that provision to all women, including marginalized women such as Dalit and Madhesi women, women belonging to other indigenous communities or to religious minorities, women with disabilities, women living in remote areas, lesbian, bisexual, transgender and intersex women and displaced women. Did the Government intend to diversify its affirmative action through executive, administrative or budgetary instruments, outreach or support programmes to reach the various groups of women who faced particular forms of discrimination?

59. **Ms.** Radhika **Aryal** (Nepal) said that the National Women's Commission and seven other commissions would be constituted shortly. The Ministry of Women, Children and Senior Citizens was the central agency for all women's issues at the federal level, while the Ministry of Social Development was responsible for those issues at the provincial level. There was a dedicated unit for women's affairs at the local level. Prior to the introduction of the three-tiered Federal Government, there had been 75 district offices for women and children. The staff from those former offices had been transferred to the Ministry of Social Development and to the social development sections of all 753 local governments. Coordination between the three levels was ensured by the Federal Government; the provincial and local governments implemented the laws and regulations adopted by the Federal Government. The two lead ministries held frequent coordination meetings.

60. Drafting of the Action Plan on Gender Empowerment and Ending Gender-based Violence was complete, and it would be adopted within the 2018/19 fiscal year. Five clear indicators had been established to evaluate the effect of gender-responsive budgeting: women's participation in the formulation and implementation of programmes; women's capacity development; women's share in the benefit; promoting employment and income generation for women; and qualitative improvement in women's use of time or the reduction of their workload. The Ministry of Finance had established an interministerial gender-responsive budgeting coordination committee that monitored sectoral budget allocation and public expenditures of the various ministries from a gender perspective. That committee also oversaw the application of the guidelines for budget formulation that the Ministry of Finance had developed for use by all line ministries, and conducted capacity-

building programmes for gender focal points in every entity of the Federal Government. For the 2018/19 fiscal year, gender-responsive budgeting was reflected in the federal budgetary system. Nepal was planning to introduce gender-responsive budgeting at the provincial and local levels, but had not yet done so.

61. **Mr. Dhital** (Nepal) said that the Government had sought to make its temporary special measures as inclusive as possible. The aim was to promote education, health care and employment for women, and increased employment opportunities had been found for women in the public sector. The private sector had also responded positively to the call to identify employment opportunities for women. Nepal had limited resources, and the country would need assistance from donors and partners to combat poverty and protect vulnerable population groups.

62. **Ms. Haidar** said that she would like to know how the Government planned to continue supporting the national human rights institution, while maintaining the latter's independence and making it more effective. Its role should be to expand civic space and to promote and protect human rights defenders, especially women human rights defenders. She would like to know whether the institution was involved in the wide-ranging legislative reform in which the State party was engaged. Noting that the post-conflict transitional arrangements were still in place, she asked whether the national human rights institution was involved in that area and whether it had authority to receive complaints and to grant redress.

63. **Ms. Schulz** said that her question as to when the special opportunity provision in article 38 (5) of the Constitution would be brought into law remained unanswered, as did her query concerning the restriction of that provision to socially or culturally backward women. She asked once again whether the Government would expand its use of temporary special measures, through budgetary allocations or special programmes targeting specific groups, to accelerate the elimination of intersectional forms of discrimination and the attainment of substantive equality. She would also like to know how the Government would monitor those measures.

64. **Ms. Song** said that the delegation had not answered her question concerning the dissemination of information on laws, policies, programmes and projects for women. Alternative sources suggested that the second action plan on Security Council resolutions 1325 (2000) and 1820 (2008) had been drafted but that its adoption had been delayed by the dissolution of the Ministry of Peace and Reconstruction. She asked the delegation when that second plan would be adopted.

65. **Mr. Dhital** (Nepal) said that, with regard to temporary special measures, the Government's programme and budget system monitored the entire national programme. Civil society organizations also observed programme implementation and submitted information to the Government. Likewise, the constitutional commissions had oversight responsibilities. For example, the National Human Rights Commission monitored respect for human rights and evaluated the effect of programmes on targeted groups. However, there was no separate monitoring system in place; different government bodies collected information on programme implementation and evaluated its effects. While there were concerns that the opportunities created by the temporary special measures were benefiting the more capable segments of the population rather than the most disadvantaged and vulnerable, the overall picture remained positive. For example, a programme providing scholarships to enable members of disadvantaged groups to pay for their schooling and higher education had been put in place.

66. **Mr. Gautam** (Nepal) said that no specific law had been passed in relation to the special opportunities provision in article 38 (5) of the Constitution, but that other laws already gave effect to that provision. The Social Security Act of 2017 identified and protected nine different categories of vulnerable population groups. Human rights defenders were afforded adequate protection under the criminal law of Nepal.

67. **Ms. Acosta Vargas** said that she would welcome information on local initiatives undertaken to raise awareness of human rights and stamp out practices that were discriminatory towards women and to disseminate relevant information in the local languages, especially in remote areas. Sufficient redress had still not been provided for the

sexual violence suffered by women, including indigenous women, during the armed conflict. She would welcome clarification in that regard, and asked whether the additional one-year time limit for reporting cases still pertained or had been cancelled. She would like to know what measures the State party was taking to punish those responsible for acts of sexual violence committed during the internal conflict. Alternative sources suggested that war crimes and crimes against humanity were not codified in Nepal and that crimes such as rape and forced abortion therefore could be prosecuted only as ordinary offences. That placed Nepalese law at variance with international law and left certain crimes unpunished. For example, the definition of rape, in section 219 of the Criminal Code, as forced penetration of a girl or woman did not cover the crime of rape of a boy, a man or a transgender person, or the commission of such a crime by a woman. In addition, the definition of sexual offences under international law did not require an element of physical contact. She would welcome the delegation's comments and clarifications in that connection.

68. **Ms. Bethel** said she would welcome information on when the definition of trafficking and other conflicting provisions in the Human Trafficking and Transportation (Control) Act of 2007 would be amended and when the State party would accede to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime. Did the State party plan to remove the current provision of the Act that allowed victims to be fined if they failed to appear in court?

69. She would like to know how systematic and sustainable the State party's awareness-raising, public education and legal literacy campaigns targeting displaced women, women affected by disasters, indigenous and Dalit women, lesbian, bisexual, transgender and intersex women, women with disabilities and women living in remote areas were and whether systems were in place to evaluate their effectiveness. She would appreciate information on measures being taken to adopt standard operating procedures for victim identification and for prosecution under the Human Trafficking and Transportation (Control) Act of 2007, and clarification as to the process of referral to protection and rehabilitation services, the role of NGOs in that regard and the number of shelters in place. Alternative sources suggested that procedures for obtaining reparation were cumbersome under the Act and that women victims preferred to seek restitution under the Foreign Employment Act of 2007. She asked what measures were being taken to address the issue of reparation under the Trafficking Act and to ensure timely court hearings. She would like to know whether the Government was considering lifting the restrictions on women's migration, which it had introduced to combat the sexual exploitation of women migrants, in order to discourage undocumented migration. What was the status of the draft policy on safe migration? What measures would be taken to ensure that victims were not punished for any unlawful acts they committed as a direct result of being subjected to trafficking?

70. Regarding prosecution for trafficking, she asked for information on measures adopted to combat impunity, especially in cases involving public officials, and on any cases in which such officials had been investigated, prosecuted or convicted. Specific information on the numbers of arrests, prosecutions and convictions for trafficking in women and girls would be useful. In respect of prostitution, she would like to know what steps the State party was taking to enforce laws to address violence against and extortion of women in prostitution and to eliminate the discrimination they suffered in gaining access to justice and health services; whether the State party provided support and programmes for women wishing to leave prostitution; and whether the State party had considered decriminalizing prostitution.

71. **Mr. Dhital** (Nepal) said that, as the current Chair of the Colombo Process, the Government was considering a raft of measures to ensure safe, regular and managed migration in coordination with other countries. Both trafficking and sexual abuse cases were dealt with in fast-track court proceedings. Government and civil society organizations ran 10 rehabilitation centres for trafficking victims in Nepal, plus another centre outside the country, all of which received financing from the Government's rehabilitation fund. The Foreign Employment Promotion Board ran three transit shelters in Nepal, and the country's diplomatic missions provided support for the rescue and rehabilitation of Nepalese

trafficking victims abroad. The relevant legislation included strict provisions on the prosecution and punishment of perpetrators of human trafficking and sexual violence offences.

72. Migration agreements with destination countries were under negotiation in order to provide clear channels for Nepalese citizens who wished to find employment abroad. In order to raise awareness of human trafficking and its impact, media campaigns had been launched through television, radio and the press, with substantial involvement by NGOs. The Ministry of Labour, Employment and Social Security was taking action to crack down on fraudulent recruitment in order to ensure safe and controlled migration procedures. Significant progress in that regard had been made over the previous six months.

73. Measures taken against child marriage included a legal provision raising the minimum age for marriage to 20. The law rendered null and void any marriage entered into by couples below that age, and penalized anyone who officiated at weddings of underage couples. In recognition of the role of education in eliminating child marriage, the Government had introduced a scholarship programme to increase higher education opportunities for children in disadvantaged areas.

74. **Ms.** Radhika **Aryal** (Nepal) said that an interministerial committee had been formed to establish a legal framework that would allow the country to accede to the Trafficking in Persons Protocol in the near future. The Ministry of Labour, Employment and Social Security and the Ministry of Women, Children and Senior Citizens were holding consultations with a view to amending and harmonizing the Foreign Employment Act and the Human Trafficking and Transportation (Control) Act. Most of the provisions required under the Trafficking in Persons Protocol were already covered in the Human Trafficking and Transportation (Control) Act. National, district and local committees for controlling human trafficking had been set up across the country. The Government planned to establish at least one rehabilitation centre for trafficking victims in each province, with integrated services such as legal aid, medical care and counselling.

75. The Government's ban on migration for domestic work abroad applied equally to men and women and was intended to ensure the safety and security of young women in particular. Once clear rules for domestic workers had been introduced, covering the minimum wage, working hours and various other security measures, the Government would consider lifting the ban.

76. **Mr. Gautam** (Nepal) said that the Enforced Disappearances Enquiry, Truth and Reconciliation Commission Act of 2014 would soon be amended to resolve problems relating to the statute of limitations and evidentiary requirements for the prosecution of sexual abuse offences committed during the civil war, in accordance with the relevant decisions of the Supreme Court and the Constitution. A committee led by a Supreme Court justice had been responsible for drafting amendments to the Criminal Code to ensure that it complied with Supreme Court decisions and international standards. The Government would be open to further amending any shortcomings in the Criminal Code provisions. The definition of rape did not encompass cases where a woman was the perpetrator because there was no record of any such cases having occurred in Nepal. Police arrested women in prostitution under the Public Offences and Penalties Act only in response to complaints by the public, and the Act was not used to target sex workers specifically. The Criminal Code contained specific provisions criminalizing the miscarriage of justice and there was no gap in the legal framework on corruption. Any instances of impunity were isolated cases.

77. **Ms. Acosta Vargas** said that she wished to know what measures had been taken to prevent violations of the rights of intersex children, in response to the concluding observations of the Committee on the Rights of the Child (CRC/C/NPL/CO/3-5, para. 41), and violations of the rights of intersex persons in general. It would be helpful to have statistics on the surgical operations carried out on intersex persons in violation of their rights.

78. She wondered whether indigenous women, who were often the target of various forms of violence, had access to the United Nations Trust Fund in Support of Actions to Eliminate Violence against Women. If so, she would be interested to learn to what extent the initiatives developed using those funds had been implemented at the local level and

what the outcome had been. Were there any policies in place to recruit female police officers to represent the diversity of the population?

79. **Ms. Bethel** said that she would appreciate a description of the quality of the psychological and health services offered at the rehabilitation centres for trafficking victims.

80. **Ms. Narain** said that the practice of secluding menstruating women continued in rural areas despite its being a criminal offence. She wished to know whether there had been any arrests or prosecutions and, if not, whether that was because the authorities were reluctant to prosecute the parents and elders involved. She asked how the State party intended to step up measures to enforce the prohibition of the practice.

81. **Mr. Bergby** said that the ban on domestic work abroad was discriminatory in practice, since the majority of those who engaged in such work were women. Women who were under the age of 24 or who were breastfeeding were not allowed to engage in any type of employment overseas. Those bans were discriminatory and had the effect of driving migration further underground. The Special Rapporteur on the human rights of migrants, on his mission to Nepal, had found that a considerable number of Nepalese women used irregular channels, often involving unscrupulous recruiters. Were those reasons sufficient to persuade the Government to lift those bans?

82. **Mr. Dhital** (Nepal) said that the age restriction on migration was in place for the benefit of women, since women over a certain age were better able to handle the pressures of working abroad. Similarly, as part of his country's commitment to children's rights, migration restrictions had been imposed on breastfeeding mothers to protect their children. Under the Constitution and the laws of Nepal, men and women, including migrant workers, had equal opportunities for employment. Given the difficulties involved in protecting exploited workers abroad, the consular services offered at the diplomatic missions of Nepal were being enhanced to protect migrant workers and build safe and regular migration channels.

83. **Ms.** Radhika **Aryal** (Nepal) said that the Criminal Code provisions prohibiting the practice of secluding menstruating women had come into effect only two months previously. No complaints had yet been filed regarding the practice. The Government conducted campaigns across the country to raise awareness of the new provisions, in conjunction with civil society organizations. The Ministry of Federal Affairs and Local Development and the Ministry of Women, Children and Senior Citizens had organized orientation and awareness-raising programmes for newly elected local government officials with the aim of reducing and eliminating violence against women and girls.

84. The Nepal Police had recently established a bureau to investigate trafficking cases and bring perpetrators to justice. The services at rehabilitation centres were provided in partnership with civil society organizations, and standard operating procedures were in effect to maintain the quality of the services.

Articles 7 to 9

85. **Ms. Schulz**, noting that the representation of women in the national executive branch had decreased compared to previous years, said that she wished to know whether the current composition of the Council of Ministers complied with article 76 (9) of the Constitution, under which the composition of the Council must reflect the principle of inclusion. She asked how the State party planned to remedy the underrepresentation of women at the federal, provincial and local levels of government, in accordance with articles 38 (4) and 40 (1) of the Constitution, which concerned the proportional inclusion of women and the representation of Dalit women. Even though a large number of women, including Dalit women, had been elected at the local level, many Dalit women were unable to represent the interests of their communities effectively owing to a lack of training and skills and to discrimination and stereotypes that prevented their voices from being heard. It would be useful to know whether the Government intended to launch any large-scale capacity-building or training programmes for those women and whether any measures were in place to combat discrimination within local authorities.

86. No rule had been introduced to ensure the participation of women in the judiciary, where they were seriously underrepresented. She wished to know whether any measures would be taken to rectify the situation and comply with the constitutional provision recognizing women's equal right to participate in all bodies of the State. She invited the delegation to provide further information on the scholarships introduced to encourage young women from excluded groups to study law and join the justice system. Noting also the underrepresentation of women in the civil and diplomatic services, she wondered what measures had been or would be adopted for the targeted recruitment, training and promotion of women. Had there been any changes in the figures given in paragraph 55 of the State party's report regarding the representation of women in the Nepal Police, the Nepal Army and the Armed Police Force? She also asked whether any measures had been or would be taken to increase women's representation in trade unions and the media.

The meeting rose at 1 p.m.